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Landrum



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 16

February 23, 1999

No. 07

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WEEK IN REVIEW - FEBRUARY 15 - 19, 1999

HOUSE FLOOR

The House of Representatives amended, approved, and sent to the Senate H.3082 which provides for alternative schools for students who present particularly disruptive behavior problems. This bill requires that, beginning with school year 1999-2000, school districts, acting individually or cooperatively, shall establish, maintain, and operate alternative school programs for certain students in grades 6-12 who have been expelled from school or who have been referred to the alternative school due to a documented record of disruptive behavior. Such alternative schools are designed to serve students who have disrupted a school environment or committed such serious offenses as violence, possession of weapons or controlled substances, or harassment or verbal abuse of school personnel or other students. Such alternative schools must separate students from the general school population by operating on a separate site, in a separate building on an existing school campus, or at a time when the general school population is not in session. The bill specifies requirements and procedures which local school boards must follow in the operation of these schools. The legislation provides that all federal, state, and local per student funds shall follow a student who is transferred from a regularly assigned school to an alternative school to be used by the alternative school. The bill provides that alternative schools are also to receive funds specifically allocated for their needs by General Assembly to be included in the Education Finance Act. The House approved various amendments to the legislation, one of which authorizes the use of corporal punishment as a disciplinary method in the alternative schools. The schools and their employees would not be liable under the SC Tort Claims Act for making use of corporal punishment, except when such punishment is performed in a grossly negligent manner. Another amendment approved by the House allows individual school districts to decide what transportation services are to be provided for students attending alternative schools.

The House sent to the Senate H.3096 which This bill prohibits (except under specified conditions) a school district superintendent from receiving, for the performance or continuation of his duties, a salary supplement or other consideration above two hundred dollars. The bill also provides penalties for violation.

The House amended, approved, and sent to the Senate H.3040. As amended, this bill allows a citizen of a foreign jurisdiction who is at least eighteen years of age, is employed in South Carolina, and has a valid drivers license issued in his native jurisdiction to drive in South Carolina for five years without obtaining a South Carolina drivers license. The exemption may only be utilized if the foreign jurisdiction has a licensing procedure at least as strict as South Carolina's, and provides a reciprocal arrangement for citizens of this state. Under the bill, these provisions also apply to qualified dependents of foreign nationals. As introduced, the bill extended the exemption only to citizens of Germany or Japan. Current law allows a four year exemption only for citizens of France.

The House also sent to the Senate H.3337. Currently, in the event there is a vacancy in the position of chief administrative law judge or for any reason the chief

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administrative law judge is unable to act, his or her powers and functions must be exercised by the administrative law judge occupying Seat 2. Under H.3337, the most senior administrative law judge, as determined by the date of the election to the division, would fill the vacancy.

The House approved and sent to the Senate H.3445 which repeals the current \$120 million limit on outstanding state institution bonds.

The House concurred in Senate amendments to H.3259 and ordered the legislation enrolled for ratification. The joint resolution allows a state individual income tax deduction for retirement income, not to exceed three thousand dollars a year, for taxable years 1994 through 1997, for taxpayers who elected to defer a retirement income deduction until age sixty-five or who failed to make such an election.

SENATE FLOOR

On Friday, February 12, S.487 a bill relating to the method of electing the members of the Orangeburg County Consolidated School District Five was read for the second time.

On Tuesday, February 16, H.3341 was read for the third time and having received three readings in both Houses, it was ordered that the title be changed to that of an Act and enrolled for Ratification. H.3341 allows the rate flexibility established under the comprehensive automobile insurance revisions of Act 154 of 1997 to go into effect on schedule regardless of whether the rates are filed with the Department of Insurance prior to March 1, 1999.

Also on Tuesday, the following bills were read for the third time and ordered sent to the House:

- S.358 a bill that would allow the Department of Natural Resources to issue individual tags for taking antlerless deer statewide except on properties receiving antlerless deer quota permits
- S.402 a bill that prohibits the hunting of migratory waterfowl on certain portions of Bear Creek in Lancaster County
- S.457 a joint resolution relating to school days missed by the students of Tamassee Elementary School in Oconee County
- S.248 a bill that authorizes the Pee Dee Regional Airport District to deposit, expend monies, accept donations, issue negotiable instrument bonds, notes, and other evidences of indebtedness

On Tuesday H.3346, a bill that adds the provision and maintenance of golf courses to the list of activities permitted for the Charleston Park, Recreation and Tourism District, was read for the second time with notice of general amendments.

On Tuesday, the Senate adopted the following concurrent resolutions:

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- **H.3319** a concurrent resolution designating the first Thursday in May as "Legislative Family Day 1999"
- **S.252** a concurrent resolution to request the Commissioner of the Department of Health and Environmental Control to study the effect of obesity in both adults and children
- **H.3479** a concurrent resolution to invite the Chief Justice of the South Carolina Supreme Court, The Honorable Ernest A. Finney, Jr., to address the General Assembly in joint session on the state of the judiciary at 12:00 noon on Wednesday, February 17, 1999

On Tuesday, **S.150**, a bill relating to the Department of Public Safety's Authority to issue special license plates to retired members of the South Carolina National Guard, was made a special order. The Senate resumed debate on **S.150** on Wednesday, but the Joint Assembly interrupted debate. On Thursday **S.150** was amended, read the third time, and ordered sent to the House.

On Wednesday, February 17, the following bills were read for the third time and having received three readings in both Houses, it was ordered that the titles be changed to that of Acts and that they be enrolled for Ratification:

- **H.3412** a bill that increases the Boiling Springs Fire Control Board from five to seven members
- **H.3332** a bill that ratifies the amendment approved by voters at the last general election authorizing the State Treasurer to invest endowment funds donated to state-supported institutions of higher learning

On Wednesday, the following bills were read for the third time and ordered sent to the House:

- **S.320** bill that provides it is unlawful to take certain large-mouth bass in specified portions of Lake Wylie and the Savannah River subject to the jurisdiction of the State of South Carolina
- **S.370** a bill pertaining to (1) the commercial taking and recreational fishing for dolphin, and (2) the harvesting of sargasso weed
- **S.463** a joint resolution relating to contractor licenses
- **S.136** a bill that provides that the Worker's Compensation Trust Fund Balance must not be treated as a "carry forward" revenue but must be managed so as to approximate the annual actuarial estimate of incurred but unpaid liabilities
- **S.224** a bill relating to Campaign Practices
- **S.228** a bill that allows public meetings to be video taped by those in attendance at the meetings

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- **S.242** a bill that includes the presumed, inferred, or alleged father as one of the individuals that may institute a paternity action
- **S.287** a bill that provides that a husband or wife is required to disclose any communication, confidential or otherwise, made by one to the other during the marriage where the suit, action, or proceeding concerns or is based on criminal domestic violence or criminal violence of a high and aggravated nature
- **S.379** a bill that authorizes the issuance of school facilities bonds as general obligation bonds of the state of South Carolina

On Wednesday the following appointments were confirmed in open session: (1) Director of the Department of Public Safety: B. Boykin Rose *Vice: James Caulder*, and (2) Director of the Department of Revenue and Taxation: Elizabeth Ann Carpentier *Vice: Burnet R. Maybank III*.

On Thursday, February 18, the following bills were read for the third time and ordered sent to the House:

- **S.498** a bill that restores the devolved powers to the joint legislative delegation representing Georgetown County relating to the Waccamaw Regional Planning Council
- **S.317** a bill relating to property taxes on land transferred to a church

On Thursday, **S.41** a bill relating to permits for beer and wine sales that allows delivery of beer or wine in a sealed container by retail permit holders in certain circumstances, was read the second time with notice of general amendments.

On Thursday the following bills were read the second time:

- **S.324** a bill that (1) clarifies that a nonprofit corporation may serve as trustee of a trust in which it has a beneficial interest, and (2) provides that a nonprofit corporate trustee of trust in which it has a beneficial interest is not conducting a trust business with regard to that trust
- **S.373** a bill that (1) provides a procedure for the challenging of the qualifications of an elector, and (2) amends *South Carolina Code of Laws* by adding §7-5-325 so as to provide that written notification of a change of address is deemed given under oath
- **S.476** a bill that prohibits the removal or renaming of certain monuments and memorials located on public property without a $\frac{2}{3}$ vote of each branch of the General Assembly
- **S.102** a bill that creates the "South Carolina Drug Dealer Liability Act" which provides a civil remedy for damages for monetary, non-economic, and physical losses to persons and communities incurred as a result of an individual's use of illegal controlled substances (The Senate adopted an amendment to this bill proposed by the Committee on Judiciary)

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- **S.195** a bill that proposes to repeal Chapter 21 of Title 21 of the *South Carolina Code of Laws* (Natural and Parentally Appointed Guardians) (The Senate adopted an amendment to this bill proposed by the Committee on Judiciary)
- **S.372** a bill that exempts certain offenses which prohibit an individual from being employed as a day care worker (The Senate adopted an amendment to this bill proposed by the Committee on Judiciary)

On Thursday the Senate adopted the following concurrent resolutions:

- **H.3426** a concurrent resolution pertaining to the 1999 Jean Laney Harris Folk Heritage Awards
- **H.3453** a concurrent resolution that declares November 7-13 as "South Carolina Alzheimer's Disease Awareness Week" for 1999
- **H.3490** a concurrent resolution that (1) acknowledges The National Beta Club, which was founded in Landrum in Spartanburg County, on the occasion of its 65th anniversary, and (2) declares the week of March 1-7 as National Beta Club Week

JOINT ASSEMBLY

On Wednesday, February 17, The Honorable Ernest A. Finney, Jr., Chief Justice of the South Carolina Supreme Court, addressed the General Assembly in Joint Session on the state of the judiciary. The Chief Justice reported on the following:

- the increased efficiency in the state's judicial branch brought about through recent expansions and reorganization of resources.
- a request for funding from the General Assembly which would allow the Alternate Dispute Resolution Program to expand beyond the two counties where it is being conducted as a pilot program. Chief Justice Finney suggested that an expanded Alternate Dispute Resolution Program might be one means of handling the effects of such penalty enhancement legislation as the Sexually Violent Predator's Act, and alleviating tensions if computer malfunctions forecasted for the Year 2000 create a glut of lawsuits.
- a report on the progress that has been made in improving the disciplinary process regarding attorney and judicial misconduct.
- a funding request for upgrading information technology in the judicial branch.
- a request for a judicial salary increase of 6.05% to bring salaries up to the southeastern average for judges.
- an endorsement of Drug Treatment Court legislation under consideration in the General Assembly, provided that such a new program would not divert resources away from existing programs.

- advice that the judicial branch should not simply be maintained at subsistence levels, but fully equipped to meet the growing needs of our state's rapidly expanding population.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee gave a favorable recommendation with amendments to **H.3219**, and voted to make it a committee bill. The bill as originally drafted gives the State Board of Education power and responsibility to establish, by school year 2000-2001, a uniform grading system to be used by all public schools in this State. The bill provides that the grading system is authorized to permit variations in grading between elementary and secondary schools and in other instances where variation is necessary due to curriculum differences.

The committee bill directs the State Board of Education to establish by June 1, 1999, a task force comprised of superintendents, principals, teachers, and representatives of school boards and higher education. The committee bill includes a provision that the task force shall make recommendations to the board including, but not limited to, consistent numerical breaks for letter grades; consideration of standards to define an honors course; appropriate weighting of courses; and determination of courses and weightings to be used in the calculation of class rank. The committee bill requires the task force to report findings to the board by December 1, 1999, after which the board shall adopt, and school districts shall begin using, the adopted grading scale no later than the 2000-2001 school year.

The committee gave a favorable recommendation with amendments to **H.3188**. This bill, as originally drafted, revises the maximum speed limit on an interstate highway to seventy miles an hour.

The committee recommended amending this bill so as to provide for a seventy miles an hour speed limit on the interstate highway system and other freeways; a sixty miles an hour speed limit on multilane divided primary highways; a thirty miles an hour speed limit in urban districts; and a forty miles an hour speed limit on unpaved roads. The amended bill does not change the current speed limit of fifty-five miles an hour in other locations or on other sections of highways. The committee also recommended amending the bill by adding language providing that manufactured, modular, or mobile homes cannot be transported at a speed in excess of ten miles below the posted speed limit when the speed limit is in excess of forty-five miles an hour, and never in excess of fifty-five miles an hour. The committee also recommended adding a provision to the bill that a local authority may, under certain conditions, determine that the maximum speed limit is less than thirty miles an hour in an urban district, and the committee

recommended adding provisions for the enforcement of and exclusions from such a maximum limit. The committee also recommended an amendment revising wording on highway work zone signs, so that they would read "WORK ZONE - \$200 Fine or 30 DAYS, or both FOR SPEEDING." Also, the committee recommended adding a provision that the penalty imposed for violations of the highway work zone provisions is in addition to all other penalties prescribed for speeding. The committee also recommended an amendment to define what constitutes the interstate system and the state highway primary system, and an amendment to repeal current law which provides a speed limit for moving a mobile home on the highway.

JUDICIARY

The Judiciary Committee gave a favorable recommendation with amendment to H.3079, a bill pertaining to manufacturers of machine guns or military firearms. Currently, the provisions of *South Carolina Code of Laws* Title 23, Article 31 (Firearms) apply to manufacturers of machine guns or military firearms licensed pursuant to federal law. H.3079 as introduced, provides that *South Carolina Code of Laws* Title 23, Article 31 (Firearms) would not apply to manufacturers of machine guns or military firearms licensed pursuant to federal law.

The Judiciary Committee proposes an amendment to H.3079 that would rewrite the bill and provide for the following:

- amend *South Carolina Code of Laws* §16-23-220, relating to unlawful transportation of a machine gun, military firearm, sawed-off shotgun or rifle within the state so as to further provide for penalties
- amend *South Carolina Code of Laws* §16-23-230, relating to unlawful storing, keeping, or possessing a machine gun, military firearm, sawed-off shotgun, or rifle so as to further provide for penalties
- amend *South Carolina Code of Laws* §16-23-240, relating to unlawful sale, rental, or giving away of a machine gun, military firearm, sawed-off shotgun, or rifle so as to further provide for penalties
- amend *South Carolina Code of Laws* §23-31-370, relating to special limited licenses for possession, transportation, and sale of machine guns so as to
 - i. permit a person licensed pursuant to federal law to possess, store, keep, transport, or sell a machine gun in this state after securing a special limited license from the South Carolina Law Enforcement Division (SLED)
 - ii. provide that the applications for the license authorized by *South Carolina Code of Laws* §23-31-370 must include the applicant's full name, date and place of birth, social security number, business and residence address, a record of any criminal charges filed against the applicant in the United States for other than traffic violations and the disposition of the charges, a description of the machine guns to be

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possessed, transported, or sold in this State, including their make and serial numbers, the sites within the state to which the machine guns will be transported, and such other information as may be necessary

- iii. provide that a person licensed pursuant to *South Carolina Code of Laws* §23-31-370 is prohibited from selling machine guns to agencies or persons other than those authorized by law to possess machine guns
- iv. provide that the license issued pursuant to *South Carolina Code of Laws* §23-31-370 is valid for twenty-four months (there is also a provision detailing how to renew the license)
- v. require reports of all sales or transfers of machine guns from the licensed person to other persons or agencies (the report must contain the full name, date and place of birth, social security number, business and residence address of the buyer or transferee, and a description of the machine guns transferred, including their make and serial numbers and other such information as may be necessary)
- vi. authorize SLED to suspend or revoke a license issued pursuant to *South Carolina Code of Laws* §23-31-370 under certain circumstances

The Judiciary Committee also gave a favorable report with amendment to **H.3301**. This bill as introduced provides that appeals may be taken from final orders of adoption in the same manner as other family court matters.

H.3301 as introduced, provides that after a final order is entered, no party or person claiming under a party may question the validity of the adoption because of a defect. This bill further provides that only a party to an adoption may attack the adoption either directly or collaterally because of any procedural or other defect. The bill also provides that the failure on the part of a court or an agency to perform duties or acts within requisite time periods does not affect the validity of an adoption proceeding.

H.3301 as introduced, provides that a parent whose consent was obtained by fraud or duress may within six months (1) of the final order, or (2) of discovering the fraud or duress move to have the order set aside. The Judiciary Committee's proposed amendment would delete this section from the bill. This bill, as introduced, further provides that a parent whose consent was required but not obtained may within six months (1) of the omission, or (2) of discovering the omission move to have the order set aside. The Judiciary Committee's proposed amendment would delete this section from the bill.

H.3055 was tabled during the full Judiciary Committee meeting. This bill provides that a court may not prohibit a custodial parent from moving out of state, unless the court finds a compelling reason, or the parties have agreed to such a prohibition.

The Judiciary Committee gave a favorable report with amendment to **H.3358**. This bill organizes the statutes governing corporations not-for-profit financed by federal or state loans (e.g. not-for-profit water and sewer companies) in one place in the *South Carolina Code of Laws*. The bill adds a new Chapter to the *South Carolina Code of Laws*; the

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Chapter includes (1) general provisions, (2) incorporation, (3) membership, (4) governing board, (5) sales, consolidation, and mergers, and (6) dissolution.

The Judiciary Committee's proposed amendment to H.3358 makes technical changes to the definition of a corporation not-for-profit. The proposed amendment allows the articles of incorporation filed with the Secretary of State to be filed using any method approved by the Secretary of State. The Judiciary Committee's amendment requires forms supplied by the Secretary of State to be conformed to the provisions of this new chapter. The proposed amendment clarifies that articles of dissolution must state the address of the principal office rather than the address of the principle officer. The Judiciary Committee's proposed amendment requires domestic corporations organized and governed pursuant to Chapter 35 of Title 33 of the *South Carolina Code of Laws* to be deemed to have been organized pursuant to the newly created chapter as of its effective date.

The Judiciary Committee adjourned debate on H.3356 for a period of two weeks. This bill prohibits the sale by a public body of any records, public or otherwise.

The Judiciary Committee gave a favorable recommendation to H.3337. Currently, in the event there is a vacancy in the position of chief administrative law judge or for any reason the chief administrative law judge is unable to act, his or her powers and functions must be exercised by the administrative law judge occupying Seat 2. Under H.3337, the most senior administrative law judge, as determined by the date of the election to the division, would fill the vacancy.

The Judiciary Committee gave a favorable report with amendment to H.3056. This bill as introduced provides that a summoned juror is considered delinquent when he or she does not appear in magistrate's court within forty-eight hours of the time he or she was summoned to appear before the court. Currently, a person is not required to serve on a jury in magistrate's court more than one during a three-month period. Under H.3056, as introduced, a person would not be required to serve on a jury in magistrate's court more than once every three calendar years. The Judiciary Committee proposes an amendment to this bill that would reduce the time frame from three calendar years to one calendar year.

The Judiciary Committee recommitted H.3035, a bill relating to the amount of restitution that municipal and magistrate judges may order, to the Criminal Laws Subcommittee.

The Judiciary Committee also recommitted H.3161, the "Hate Crime Penalty Enhancement Act," to the Criminal Laws Subcommittee.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The 3-M Committee gave a favorable recommendation to **H.3169**. This bill provides that every pregnant female who initially consults a health care professional in this state must be counseled about the human immunodeficiency virus (HIV), the risk of transmission of the virus to the fetus, and the treatment available to prevent such transmission. The individual must also be offered the opportunity to receive a test for the presence of HIV. Any child delivered under circumstances where the HIV status of the mother is undocumented must be immediately tested to determine the HIV status of the child. The results of any HIV test provided under the bill must be made a permanent part of the patient's medical record. Test results may be released only to health care professionals attending a patient and/or the patient's newborn child, or as authorized by the patient or the legal representative of the patient and/or the patient's newborn child. The bill provides a form which must be completed by health care professionals as evidence that the expecting mother has received the required counseling and has been given the option of an HIV test. The fiscal impact of this bill is \$88,282 recurring expenditures and \$3,500 non-recurring expenditure.

The committee gave a favorable recommendation to **H.3186**. This bill authorizes the State Board of Medical Examiners to allow reciprocal certification for physicians licensed by the Medical Council of Canada without requiring the applicant to sit for another licensure examination. Currently, the board may grant this reciprocal certification to physicians licensed by the National (U.S.) Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and surgeons and other state medical examiner boards that have the same standards as South Carolina.

The committee gave a favorable recommendation to **H.3146**. This bill requires an entity that receives funds for domestic violence programs from the Department of Social Services (DSS) to comply with the program standards contained in DSS's annual Battered Spouse State Program Plan. This plan outlines DSS's initiatives to meet the needs of under-served areas in the state and outlines requirements for provider agencies

WAYS AND MEANS

The full Ways and Means Committee did not meet this week. Full committee consideration of the 1999-2000 appropriation bills begins February 22, 1999.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3528 HABITAT PASSPORTS Rep. Witherspoon

This bill provides for the sale of habitat passports. Habitat passports entitle the holders to use designated Wildlife Management Areas or designated Heritage Trust Areas for recreational activities other than hunting or fishing. Under the bill, the cost of a habitat passport would be \$10.00, and the funds would be used for the management and maintenance of these properties. Also under the bill, any person who holds a Wildlife

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Management Areas permit or a combination hunting and fishing license would not be required to purchase a habitat passport.

S.358 *ANTLERLESS DEER* Sen. Peeler

This bill provides that the Department of Natural Resources may issue individual tags for taking antlerless deer statewide, except on properties receiving antlerless deer quota permits.

S.402 *HUNTING OF MIGRATORY WATERFOWL* Sen. Gregory

This bill prohibits the hunting of migratory waterfowl on certain portions of Bear Creek in Lancaster County.

S.320 *LARGE-MOUTH BASS* Sen. Peeler

This bill provides that it is unlawful to take large-mouth bass less than 12 inches in length from Lake Robinson, Lake Wylie, Lake Thurmond, Lake Russell, Lake Hartwell, Yohah Lake, Lake Tugaloo, Stevens Creek Lake, and portions of the Savannah River that are subject to the jurisdiction of the State of South Carolina.

S.370 *DOLPHIN AND SARGASSO WEED* Sen. Peeler

This bill regulates and provides restrictions on commercial taking and recreational fishing for dolphin. Penalties are established for failure to comply.

This bill also provides that it is unlawful to harvest or possess sargasso weed in this state, except under a permit issued by the Department of Natural Resources. Penalties are established for failure to comply.

EDUCATION AND PUBLIC WORKS

H.3534 *MOTORCYCLE REQUIREMENTS* Rep. Simrill

This bill deletes the current statutory provision that regulates the height of motorcycle handlebars.

S.457 *EXEMPTION FROM SCHOOL MAKE-UP REQUIREMENT* Sen. Alexander

This joint resolution exempts students of Tamassee Elementary School in Oconee County from making up a day of school missed due to a broken water main.

H.3557 *REQUIREMENTS FOR WELFARE RECIPIENTS* Rep. T. Brown

This bill requires a welfare recipient to meet for one hour each semester with at least one teacher of the recipient's children. The bill requires that forms be developed, to be completed and signed by the parent and the teacher at the time of the meeting, and then filed in the child's school record and also submitted to the Department of Social Services. The bill provides that failure to submit the form by a certain date will result in termination of welfare payments for one month.

JUDICIARY

H.3529 "THE EQUALIZATION OF DEFENDANTS' AND VICTIMS' RIGHTS ACT OF 1999" Rep. D. Smith

Currently, circuit court jury lists are prepared from (1) a tape of those persons holding a valid South Carolina Driver's License or Identification Card, and (2) a tape of the registered voters in the county. Under this bill, the State Election Commission would prepare the jury lists using only the tape of registered voters in the county.

Currently, no person is qualified to serve as a juror if (1) that person has been convicted in a state or federal court of a crime punishable by imprisonment for more than one year, (2) and his or her civil rights have not been restored by pardon or amnesty. Under this bill, a person convicted of a crime punishable by imprisonment for more than sixty days would not be qualified to serve on a jury.

This bill requires jurors to disclose any pending criminal charges to the presiding judge of general sessions court. Under the bill, the presiding judge would be required to disqualify any juror who has criminal charges pending against him or her in general sessions court.

This bill equalizes the number of peremptory challenges allowed defendants and the state in criminal cases.

If the prosecution is required to disclose its prospective witness list to the defendant, under this bill the court may order the defense to produce its prospective witness list upon request of the prosecution.

This bill also provides that an indictment charging the commission of more than one crime is sufficient and good law if it

- (1) contains allegations as to the time and place of each crime, as required by law
- (2) charges the commission of each crime substantially in the language of the common law for each crime, or of the statute prohibiting each of the crimes, or so plainly that the nature of the offense for each crime may be easily understood, and if the offense be a statutory offense for one of the crimes, that the offense is alleged to be contrary to the statute in that case

H.3530 PERJURY Rep. Altman

This bill provides that willfully giving false, misleading, or incomplete testimony under oath concerning consensual sexual activity between adults in any court of record, administrative, or regulatory proceeding **is not** perjury.

H.3531 THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION Rep. Harrison

This bill provides that each office on the South Carolina Employment Security Commission is a separate office and must be assigned a numerical designation. Under this bill, each election must be for a specific seat on the Commission. The bill further provides that the term of office for the commissioners begins on July 1 of each presidential election year.

H.3533 PAROLE Rep. D.Smith

This bill amends *South Carolina Code of Laws* §24-21-645, relating to parole and the review every two years of the case of a prisoner confined for the commission of a violent crime. This bill authorizes the board to extend the period between hearings for up to five years after a negative determination of parole, if the board finds that it is not reasonable to expect that a parole would be granted at a hearing held earlier. The bill requires the board to state the basis for this finding in writing. Under this bill, the board is required to adopt procedures that relate to the criteria for setting a hearing between two and five years.

This bill amends *South Carolina Code of Laws* §24-21-650, relating to the order of parole. This bill authorizes the board to extend the period between hearings for up to five years after a negative determination of parole, if the board finds that it is not reasonable to expect that a parole would be granted at a hearing held earlier. The bill requires the board to state the basis for this finding in writing. Under this bill, the board is required to adopt procedures that relate to the criteria for setting a hearing between two and five years.

H.3540 "MENTALLY ILL DEFENDANT ACT" Rep. J. Brown

This bill provides procedural safeguards in the prosecution of mentally ill defendants, and the bill requires adequate care and individualized treatment for these defendants. **H.3540** requires the Department of Mental Health to develop a Mentally Ill Defendant Program.

H.3540 revises procedural safeguards relating to an individual's fitness to stand trial and provides a procedure through which persons committed may apply for conditional release. The bill requires the Mentally Ill Defendant Program to monitor released persons.

H.3540 authorizes the Department of Mental Health to promulgate regulations relative to this new chapter.

This bill amends *South Carolina Code of Laws* §44-13-30, relating to the Department of Mental Health transferring nonresident patients to their state of residency, so as to provide that this does to apply to patients committed pursuant Chapter 23 of Title 17 (Pleading and Trial) or Article 5 of Chapter 23 of Title 44 (Fitness to Stand Trial).

This bill amends *South Carolina Code of Laws* §44-22-100, relating to the confidentiality of records maintained by the Department of Mental Health, so as to include records relative to the provisions of Chapter 23 of Title 17 (Pleading and Trial) or Article 5 of Chapter 23 of Title 44 (Fitness to Stand Trial). This bill also provides for exceptions to confidentiality requirements so long as disclosure is necessary to carry out the provisions of Chapter 24 of Title 17 (Mentally Ill Defendants) and Article 5 of Chapter 23 of Title 44 (Fitness to Stand Trial).

This bill amends *South Carolina Code of Laws* §44-23-210, relating to transferring patients between mental health and mental retardation facilities, so as to provide that this section does not apply to persons committed pursuant to the mentally ill defendant program.

H.3547 SERVICE CHARGE FOR CHECKS RETURNED DUE TO INSUFFICIENT FUNDS Rep. Davenport

This bill increases from \$25.00 to \$30.00 the service charge relating to collection and prosecution procedures for checks drawn with insufficient funds on deposit.

H.3549 COUNTY PAYING ATTORNEY'S FEES, EXPENSES, DAMAGES, AND COSTS RESULTING FROM DEFENDING AN ACTION BROUGHT AGAINST A COUNTY OFFICER Rep. Sharpe

This bill authorizes a county to pay the reasonable attorney's fees, expenses, damages, and costs resulting from defending an action brought against a county officer for performing or attempting to perform a duty imposed on him or her by law. This bill removes the limitations that (1) the plaintiff must prevail in the action, and (2) the action must affect the interests of the county.

H.3550 PERSONS APPOINTED BY THE GOVERNOR OR ELECTED BY THE GENERAL ASSEMBLY TO A STATE BOARD OR COMMISSION Rep. Rodgers

Under this bill, no person may be appointed by the Governor or elected by the General Assembly to a State Board or Commission when that person has served consecutive full terms on that Board or Commission which total twelve years or more. This limitation does not prevent a person from being elected or appointed to the same body after an absence of two years. The bill does provide for exceptions.

H.3552 SEAT BELTS Rep. Harrison

This bill requires all persons regardless of age to either wear a seat belt or be in a child restraint system. H.3552 increases the penalties for seat belt violations from \$10.00 to \$15.00. This bill also increases the maximum fine for any one incident of one or more seat belt violations from \$20.00 to \$25.00. Under this bill, occupants of the vehicle eighteen years of age or older must be assessed the fine. A fine imposed pursuant to this article for occupants of the vehicle under the age of eighteen must be imposed against the driver, if the driver is eighteen years of age or older.

This bill provides that a conviction for a violation of this article must not be included in the offender's motor vehicle records maintained by the Department of Public Safety or in the criminal records maintained by the South Carolina Law Enforcement Division.

This bill allows a law enforcement officer to stop and issue a citation to a driver solely for a seat belt violation. Under this bill, probable cause for a violation of this article must be based upon a law enforcement officer's clear and unobstructed view of a person not restrained.

This bill provides that the failure to wear a safety belt is not admissible as evidence in a civil action.

H.3553 JUVENILE PAROLE Rep. Campsen

This bill provides that juveniles committed for certain violent crimes do not have the right to have their case reviewed quarterly. Under this bill, the Board of Juvenile Parole (Board) may conduct its initial review of a juvenile between three months to twelve months after the juvenile reaches the minimum parole guidelines established by the Board. Subsequent reviews by the Board may be schedule at the Board's discretion,

but they must occur between three to twelve months of the juvenile's last appearance before the Board.

H.3555 *INFLECTING OR KNOWINGLY ALLOWING A PERSON TO INFLECT GREAT BODILY HARM UPON A CHILD* Rep. Allison

This bill makes it unlawful and a felony to inflict or knowingly allow a person to inflict great bodily harm upon a child. The bill defines the term "great bodily harm." Penalties are established for failure to comply.

S.224 *DEFINITIONS AS USED IN REFERENCE TO CAMPAIGN PRACTICES* Sen. McConnell

This bill amends definitions used in reference to Article 13 (Campaign Practices) of Title 8 of the *South Carolina Code of Laws* so as to include "matters considered by the General Assembly when the likeness, image, voice, or endorsement of a public official is used." This bill amends the definition of the term "committee" to include a corporation. This bill also amends the definition of the term "corporation" to include a statement that the term "corporation" does not include electronic or print media.

S.228 *VIDEO TAPING PUBLIC MEETINGS* Sen. McConnell

This bill amends *South Carolina Code of Law* §30-4-90(c), relating to the recording of a public meeting, so as to allow those in attendance to video tape a public meeting.

S.242 *PATERNITY ACTIONS* Sen. McConnell

This bill provides that the presumed, inferred, or alleged legal father is one of the individuals that may institute a paternity action.

S.287 *COMMUNICATIONS BETWEEN A HUSBAND AND WIFE* Sen. Holland

Under this bill, a husband or wife is required to disclose any communication, confidential or otherwise, made by one to the other during the marriage where the suit, action, or proceeding concerns or is based on criminal domestic violence or criminal violence of a high and aggravated nature.

H.3562 *INMATES* Rep. Fleming

This bill provides that the Director of the Department of Corrections and a person charged with the operation of a detention facility may (1) require inmates to work unless they are considered a security risk or mentally incapacitated, (2) restrict the types of television shows that inmates may view, and (3) require certain inmates to work on chain gangs.

This bill revises the disposition of prisoners' wages by the Department of Corrections. Under the bill, the director of the Department of Corrections must deduct any amounts required by federal and state tax withholdings. The bill outlines how the balance of the wages should be distributed to victims, victims' programs, other court ordered obligations, Department of Corrections, and ultimately to the inmates.

This bill amends *South Carolina Code of Laws* §24-13-80, a definitional statute relating to inmate wages, so that it includes definitions for the terms "assets," "costs of care," and "Department."

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This bill revises the procedure that inmates must comply with to satisfy certain costs associated with the inmate's incarceration.

This bill requires the Director of the Department of Corrections to perform a study to determine the cost savings that the Department could realize by serving inmates "meals ready to eat."

H.3566 VULNERABLE ADULTS Rep. Jennings

This bill moves the penalties for abuse, neglect, or exploitation of a vulnerable adult from *South Carolina Code of Laws* §43-35-85 to the Chapter relating to "Offenses Against the Person."

H.3568 FORFEITURE OF CASH CONFISCATED FROM A PERSON ARRESTED FOR A PROSTITUTION VIOLATION Rep. Altman

This bill provides that the cash confiscated from a person arrested for (1) prostitution, or (2) a prostitution violation is subject to forfeiture.

LABOR, COMMERCE AND INDUSTRY

H.3535 PROSPECTIVE APPLICATION OF THE HORIZONTAL PROPERTY ACT Rep. Edge

This bill makes revisions to the Horizontal Property Act so as to allow its provisions to apply prospectively. The Horizontal Property Act provides a procedure by which apartments and common property may be submitted to a horizontal property regime and thereby converted into a condominium arrangement. This bill makes various revisions so as to allow the Horizontal Property Act to apply not only to existing structures, but to proposed or anticipated structures and improvements, as well. Under the bill, property may be submitted to a horizontal property regime prior to construction or completion of any building or apartment, improvements, or structures on the property.

H.3541 APPEALS OF WORKERS' COMPENSATION COMMISSION DECISIONS Rep. Clyburn

This bill revises the procedure for appealing a decision of the Workers' Compensation Commission by requiring the appellant to give notice to the Commission within the prescribed time limits of any notices of appeals, actions taken, or orders issued by any circuit court, the court of appeals, or the Supreme Court.

H.3542 EXEMPTIONS FROM WORKERS' COMPENSATION PROVISIONS Rep. Clyburn

This bill alters the way in which an individual exempted from the mandatory workers' compensation statutes may subject himself to those workers' compensation provisions. Currently such an individual files a notice with the Workers' Compensation Commission of his intention of subjecting himself to the provisions. Under this bill, such an individual may subject himself to the workers' compensation provisions by purchasing workers' compensation insurance or by operating under an approved self-insurance program.

H.3543 WITHDRAWAL FROM WORKERS' COMPENSATION PROVISIONS

Rep. Clyburn

This bill revises the way in which an individual who is exempt from the mandatory workers' compensation statutes and who has voluntarily subjected himself to those workers' compensation provisions may, subsequently withdraw from those statutory provisions. Currently such a withdrawal is accomplished through written notice to the Workers' Compensation Commission. This bill allows such an individual to withdraw by canceling his workers' compensation insurance or self-insurance privileges.

H.3544 PENALTY FOR FAILURE TO MAKE REQUIRED WORKERS' COMPENSATION REPORTS **Rep. Clyburn**

This bill revises the penalty which any employer of insurance carrier must pay who refuses or neglects to submit required forms, records, and reports for the proper handling or adjudication of a workers' compensation claim. Currently the penalty is a fine not less than ten dollars nor more than one hundred dollars. The bill provides that the fine is not more than five hundred dollars.

H.3545 VOLUNTARY WORKERS' COMPENSATION SETTLEMENTS **Rep. Clyburn**

This bill revises the filing procedure for workers' compensation settlement agreements which have been reached by an employer and employee. Currently, a copy of such a settlement agreement must be filed by the employer with and approved by only one member of the Workers' Compensation Commission if the employee is represented by an attorney. Under the bill, the employee must, instead, file the settlement agreement with the Commission within five days of consummation, when the employee is represented by an attorney.

H.3546 NOTICE OF FINAL WORKERS' COMPENSATION PAYMENT

Rep. Clyburn

This bill revises the penalties paid by an employer who fails to notify the Workers' Compensation Commission of the final payment of workers' compensation. Currently, such an employer is subject to a civil penalty in the amount of twenty-five dollars. Under the bill, penalties are to be the same as those prescribed for failure to submit to the Commission required forms, records, and reports for the proper handling or adjudication of a workers' compensation claim.

H.3561 MEDICARE SUPPLEMENTAL HEALTH INSURANCE COVERAGE

Rep. Fleming

This bill provides that if a company offers Medicare supplemental health insurance coverage, the company must provide for an open enrollment period of not less than six months for all ages categories, and no person applying for coverage during the enrollment period shall be denied the coverage. The bill also provides that a company must offer Medicare supplemental health insurance coverage to persons under sixty-five years of age who qualify for the coverage whether due to social security disability or any other reason.

H.3563 "TELEMARKETING PRIVACY ACT" **Rep. Miller**

This bill requires each local telecommunications exchange carrier to establish, at no cost to residential subscribers, a list of telephone numbers of residential subscribers who object to receiving unsolicited telephone calls. Each local carrier must provide the initial list to the Public Service Commission by March 31, 2000, and provide monthly updates,

thereafter. Under the legislation, no unsolicited telephone call may be made to any of the numbers on the compiled list for the purpose of conducting commercial activities or soliciting charitable donations. The bill specifies certain information which must be disclosed in the course of any unsolicited telephone call made to a residential subscriber in this state. Penalties are established for violators.

S.136 WORKERS' COMPENSATION TRUST FUND Sen. McConnell

This bill makes revisions to laws governing the State Accident Fund so as to provide that the workers' compensation trust fund balance shall not be treated as "carry forward" revenue for budgetary purposes but must be managed so as to approximate the annual actuarial estimate of incurred but unpaid liabilities.

S.463 RENEWAL OF CONTRACTOR LICENSES Sen. Martin

This joint resolution provides that, notwithstanding any other provisions of law, all current contractor licenses shall remain in effect until September 1, 1999, at which time procedures for renewal and biennial licensure pursuant to Title 40, Chapter 11, take effect unless otherwise provided for in regulation.

H.3573 SOUTH CAROLINA COMPETITIVE POWER ACT Rep. D. Smith

This bill provides for comprehensive restructuring of the electric utility industry designed to establish by January 1, 2003, a competitive marketplace in which all retail consumers may select their providers of electrical service. No later than six months after the effective date of this act, the Public Service Commission must adopt and publish a plan for the transition into the competitive electrical market. Under the bill, all customers must be permitted to choose their providers of electrical generation services. This may be achieved by: (1) a customer negotiating a bilateral contract with a generator of electricity; (2) a customer choosing to receive generation and other energy services from a market aggregator which may generate electricity directly, buy and sell electricity, or enter into financial contracts for electrical generation resources. Market aggregators may be brokers, cooperatives, buying clubs, municipalities, or other entities which operate through power pools or direct contracts; or (3) a customer who has not chosen an alternative source must be serviced by a default provider established by the Public Service Commission. All electricity suppliers must be approved and certified by the Commission. The Commission plan for restructuring must require the incumbent utilities to "unbundle," that is, separate financially and operationally the services of generation, transmission and distribution. The billing process shall allow for two bills: one bill for transmission and distribution of power, and the other bill for the power supplied. Under the legislation, the local utility is relieved of its traditional obligation to serve, but still has an obligation to connect all customers within its service territory on nondiscriminatory terms and conditions. The right of eminent domain may not be used to limit competition. The subsidies for environmental, universal service, energy conservation, and other mandated programs must be separated from electric rates, and the Commission must submit to the General Assembly a report on recommended legislative action. The bill establishes a procedure by which existing utilities may recover their "stranded costs," that is, certain investments and expenditures which a utility has made under the present system of guaranteed profits and service territories, but the benefits of which the utility would not exclusively enjoy in a competitive marketplace. Under the bill, utilities may file recovery plans with the Commission and may be reimbursed through a stranded cost recovery charge which must be a fixed, monthly access charge allocated to all customers. The Commission shall approve a

stranded cost recovery plan no later than eighteen months after the effective date of the legislation. The Commission shall promulgate regulations that ensure reliable and safe electric service under the reorganized market. The bill also establishes, the Electricity Competition Committee, a fourteen-member legislative oversight committee on electrical restructuring, with seven members drawn from each of the two houses of the General Assembly. The Committee is charged assisting the Public Service Commission in the restructuring of the retail electrical market, providing an annual progress report, and recommending any necessary legislation.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.252 OBESITY STUDY Sen. Giese

This concurrent resolution requests that the Department of Health and Environmental Control (DHEC) study the effect of obesity in both adults and children on costly health complications, and make recommendations to the General Assembly for improving awareness of and treatment for obesity.

WAYS AND MEANS

H.3536 LEGISLATIVE PAY INCREASE Rep. Inabinett

This concurrent resolution requests, on behalf of the members of the General Assembly, that the staffs of the House Ways and Means Committee and of the Senate Finance Committee study the issue of increasing pay to South Carolina legislators. The resolution also requests that the staffs report their findings to their respective committees and to the General Assembly by June 1, 1999.

H.3548 TRANSFER OF HOMESTEAD EXEMPTION Rep. Sharpe

This bill provides that the homestead exemption currently provided to individuals age 65 and over or to individuals who are totally and permanently disabled or blind, may be transferred to another county under certain circumstances and conditions.

H.3559 STATE SCHOOL FACILITIES BOND ACT Rep. W. McLeod

This bill provides that state bonds may be issued from time to time, under specific terms and conditions, with proceeds to be used to assist the school districts of South Carolina in constructing and equipping of school facilities, in an amount not to exceed 75% of the cost of such facility. The matching amount required of a school district to obtain a state grant must be on a sliding scale based on the index of taxpaying ability. The bill sets \$750 million as the maximum principal amount of these bonds that may be issued, except that this limitation does not apply to any state school facilities bonds issued for the purpose of refunding prior issues of these bonds. The bill states that it is the General Assembly's intent that within this limitation, \$250 million of state school facilities bonds must be issued in each of the fiscal years 1999-00, 2000-01, and 2001-02. The payment of the principal and interest on these bonds will be allocated annually by the General Assembly from tax revenues.

H.3560 SALES TAX CAP ON CERTAIN PERSONAL PROPERTY Rep. W. McLeod

This bill raises from three hundred dollars to five hundred dollars, the maximum sales, use and casual excise tax on personal property including motor vehicles, aircraft,

motorcycles, boats, certain trailers, certain recreational vehicles, certain construction equipment, musical instruments and office equipment purchased by qualifying religious organizations, and certain machinery used for research and development. The bill also revises the method of calculating tax for the sale of a manufactured home.

S.379 STATE SCHOOL FACILITIES BOND ACT Sen. Bryan

This bill provides that state bonds may be issued from time to time, under specific terms and conditions, with proceeds to be allocated to school districts, and used by school districts, for permanent school facilities and fixed equipment. The bill sets \$750 million as the maximum principal amount of these bonds that may be issued, except that this limitation does not apply to any state school facilities bonds issued for the purpose of refunding prior issues of these bonds. The bill states that it is the General Assembly's intent that not more than \$250 million of these bonds will be issued in Fiscal Year 1999-2000. The bill provides that the authority to issue these bonds expires four years from the effective date of the bill. The payment of the principal and interest on these bonds will be allocated annually by the General Assembly from tax revenues.

H.3564 SALES TAX CAP ON CHURCH FURNITURE Rep. Carnell

This bill sets a three hundred dollars sales tax cap on the sale of certain furniture purchased by a religious organization exempt under Internal Revenue Code 501(c)(3).

H.3565 ELIGIBILITY FOR LIFE SCHOLARSHIPS Rep. Hinson

This bill provides that, for purposes of determining eligibility for *LIFE* Scholarships, a 3.0 cumulative grade point average is defined as an eighty or above on a one hundred point grading scale.

H.3569 EXEMPTIONS FROM SALES TAX Rep. Bauer

This bill adds school yearbooks sold to primary and secondary schools and institutions of higher learning and their students, faculty, and staff, to the list of items which are exempt from the state sales and use tax.

**H.3570 TAX ON VIDEO GAMES/SALES TAX EXEMPTION
ON CERTAIN FOOD PURCHASES Rep. Robinson**

This bill imposes a tax of nine and eight-tenths percent on the gross machine income derived from certain video games with a free play feature, and provides for liability, time, and method of payment of this tax. The bill also adds food items eligible for purchase with U.S. Department of Agriculture food coupons (not including restaurant meals) to the list of items that are exempt from sales tax.

The bill requires that \$25 million of the revenue from the video games tax in a fiscal year must be used to provide services to treat compulsive gamblers and to improve the social ills caused by compulsive gambling, and the bill delineates how these services must be provided. The bill provides that if the balance of the revenue after deducting the amount required for the compulsive gambling programs is insufficient to offset revenues collected because of the sales tax exemption for food, the \$25 million will be reduced accordingly. If the revenue is sufficient to fully fund the gambling programs and to offset the lost revenues from the food tax exemption, then any excess must be used for public school construction and renovations.

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The bill creates the Video Games Regulation and Enforcement Advisory Committee and prescribes its membership, their terms, and their responsibilities and authority. This committee would advise state officials on matters of regulation and enforcement arising from operation of these games in South Carolina, and would also offer advice on appropriate services for compulsive gamblers, and methods of delivering these services.

H.3571 CONSTITUTIONAL AMENDMENTS RE PROPERTY TAX Rep. Robinson

This joint resolution proposes amending the SC Constitution so as to:

Provide that property tax must be levied separately on any classification of personal property created to include a portion of the "all other personal property" classification but subject to an assessment ratio of less than ten and one-half percent. The millage rate that would be imposed on this new class may not exceed the rate imposed for 2000 except upon referendum approval or by a "positive majority" (as defined in the resolution) vote of the governing body.

Create a new property tax classification consisting of personal property not used in a trade or business which must be titled by a state or federal agency excluding aircraft and units of manufactured housing and providing an assessment ratio for this new class equal to nine and thirty-eight hundredths percent of fair market value declining over four years to a permanent rate of six percent.

The resolution requires that these proposed amendments be submitted to voters at the next general election for representatives.

H.3572 FUNDING FOR K-12 EDUCATION Rep. Bauer

This bill requires that, appropriations for K-12 education must be considered first when the General Assembly considers the annual budget on second reading, and when the Senate considers it on third reading if any unresolved K-12 appropriations remain.

H.3574 TUITION FOR CERTAIN VETERANS' CHILDREN Rep. Knotts

This bill provides that children of veterans awarded a purple heart for wounds received in combat are eligible for free tuition at state-supported colleges, universities, and technical schools, under specified conditions.

H.3575 TUITION RATES FOR CERTAIN DEPENDENTS Rep. Knotts

This bill provides that a dependent of a person who is a resident of another state and who has paid South Carolina income or local property taxes for the previous year in an amount exceeding two thousand dollars, is entitled to pay in-state tuition rates for the succeeding year at state institutions of higher learning.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpitr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

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LEGISLATIVE UPDATE

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